

Budgeting for County Drainage Board Operations

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INTRODUCTION

This is a review of the budget procedure for drainage board operations. After reading the Indiana Drainage Code, I have attempted to pull out those parts that deal with budgets and appropriations. I do not profess to be an expert on drainage but perhaps some problems that came up last year in reviewing county budgets can be resolved at this meeting.

Last year some errors were probably made in reviewing budgets but the Indiana State Board of Tax Commissioners has not crippled anybody's program. With that in mind, the board is trying to approach budget review this year with a better understanding at both the state level and the county level in an attempt to implement this drainage program.

ADMINISTRATIVE RESPONSIBILITIES

Through the years the legislature has passed many laws, creating various agencies of state government, requiring functions to be done within the limitations of the Indiana State Constitution. In the main, these things have been done to provide a better state to live in and for the betterment of mankind. County commissioners, under this new law, have been charged with the responsibility of drainage—a function which requires tax funds to carry out their responsibilities. Whenever funds are required to be raised by taxation, we find laws setting forth a definite procedure to obtain these funds, budgets, and tax levies.

In the process of preparing and reviewing budgets and tax levies, the legislature has also passed laws placing certain obligations and responsibilities on the state board of tax commissioners. In view of these obligations, it is felt this meeting will provide a general understanding of the tax board's position when we review budgets appropriating money for drainage purposes. The board is of the opinion that the statutes put

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an obligation on the board to review budgets very carefully, to see that the various tax units have adequate funds to operate their offices, and at the same time justify the taxes that will have to be paid by the taxpayer.

Chapter 305, the Acts of 1965, known as the Indiana Drainage Code, has charged county commissioners with the responsibility of drainage in the state. Much of the code does not concern the tax board; therefore, consider now only those sections which have to do with the raising of revenue through taxation and which will be subject to review and approval. With all of this in mind, some guidelines and recommendations in budgeting for the drainage board will be presented.

EXPENSES OF DRAINAGE BOARD

Section 106 of the code provides for employees, compensation, and expenses of the drainage board. In this section, certain items are set out as expenses of the drainage board and expenses are to be paid from funds appropriated from the general fund of the county. Therefore, it would seem logical for the drainage board to prepare a budget estimate each year as other offices of the county do.

Our department concurs with the state board of accounts that all operating expense of the drainage board are payable from funds appropriated from the county general fund. It is recommended that these expenses be set up as a drainage board function just as is done for the auditor, treasurer, assessor, etc. One should prepare a budget estimate for the drainage board, which will be carried to and included in the Ordinance of Appropriations, (County Budget Form No. 30) which shows the detail accounts and amount appropriated by the county council. The expenses of the drainage board will include the following: per diem of special members of the board, compensation of the attorney employed by the board, compensation of a deputy surveyor appointed pursuant to Section 106, secretarial service, mileage of the board, postage, telephone, office records, office supplies and office equipment. There are several items here and like every other office of government, when attempting to get an appropriation for the money needed, one should be in a position to justify it at the local level. Therefore, with a drainage budget, which is part of one of the offices in the county, it then becomes an appropriation of the county general fund.

FINANCING DRAINAGE IMPROVEMENTS

Section 701 of the code provides for the financing of drainage improvements. In this section there is created in each county in the state a

general drain improvement fund which shall be used to pay the cost of construction or reconstruction of a legal drain, or the cost of periodically maintaining a legal drain in the event that a maintenance fund has not been established for the drain, or if a maintenance fund has been established and it is insufficient, then the general drain improvement fund shall be used to pay such deficiency. The general improvement fund shall consist of:

(1) All funds in any ditch or drainage fund, created pursuant to any act repealed by the provisions of this act not otherwise allocated at the time this act becomes effective;

(2) Proceeds from the sale of all bonds issued to pay the costs of a drainage improvement;

(3) Costs collected from petitioners in a drainage proceeding;

(4) Appropriations made from the general fund of the county or taxes levied by the county council for drainage purposes;

(5) Money received from assessments upon lands benefited for construction or reconstruction of a legal drain;

(6) Interest and penalties received on collection of delinquent drain assessments and interest received for deferred payment of drain assessments; and

(7) Money repaid to the general drain improvement fund out of a maintenance fund.

Of these items our department is concerned only with No. 4 appropriations made from the general fund of the county or taxes levied by the county council for drainage purposes—when we review the county budget and approve the final budget and levies. The other six items are not derived from property tax revenue.

APPROPRIATIONS—OPERATING BALANCE

Item (b) of Section 701 provides that the county council, at the request of the drainage board and on estimates prepared by it, shall from time to time appropriate sufficient funds for transfer to the general drain improvement fund to maintain the fund at a level which will be sufficient to meet the costs and expenditures to be charged against it after allowing credit to the fund for assessments paid into it. It appears to us this section requires funds to be appropriated anytime during the year. However, we believe careful consideration should be given to such a request because an additional appropriation during the year usually decreases the general fund operating balance, which could jeopardize the financial position of the county. Therefore, we think the appropriation should be considered and made at the time the annual budget is prepared.

Perhaps many times we have a different view of an operating balance. That money is set aside to operate on after the current budget year is over and until a tax draw occurs—many times it is dissipated by additional appropriations. It is realized that emergencies come up but if we adhere to the statute—it very plainly says an . . . “extreme, extraordinary emergency.” Therefore, when necessary to have an additional appropriation for some purpose, weigh it very carefully before going to the council and have it appropriated out of the county general fund.

APPROPRIATION LIMIT

Item (c) of Section 701 states there is no limit to the amount of money which may be appropriated or levied in any one year for the general drain improvement fund by the county council, except that the aggregate amount which may be appropriated and levied for the use of the fund shall not exceed an equivalent of 30 cents on each \$100 of net taxable evaluation on the real and personal property in the county. This section seems to be causing some concern and we are not giving an official opinion; but in order that there may be an understanding between the State Board of Tax Commissioners and the local officials in the preparation and review of 1967 budgets this coming fall, it seems the key words to this section are: *Except that the aggregate amount which may be appropriated and levied for the use of the fund—the fund being the general drain improvement fund—shall not exceed the equivalent of 30 cents on each \$100 of assessed evaluation.* Although it states there is no limit in the amount of money that may be appropriated or levied in any one year, we find an exception—*except that the aggregate amount shall not exceed 30 cents.* Therefore, it would seem the general drain improvement fund is limited to 30 cents per \$100 in the aggregate amount. The word “aggregate” in this context can be defined as the total of all points or number that satisfy a given condition. Therefore, cash in the fund from the various sources plus any money appropriated from the county general fund, make up the aggregate amount of the said fund and is limited to 30 cents on each \$100 of net taxable evaluation of real and personal property in the county.

ESTABLISHING GENERAL DRAIN IMPROVEMENT FUND

Since Section 701(c) talks about appropriations from the general fund, or taxes levied for the use of the general drain improvement fund, it will, in all probability, raise the question: *Should there be a separate tax levy for the general drain improvement fund?* In our opinion we do

not believe a separate tax levy should be made. If an appropriation can be made from the general fund for the general drain improvement fund and any excess in the general drain improvement fund raised by taxation shall be transferred to the general fund of the county, it stands to reason the appropriation (for transfer to the general drain improvement fund) should be made in the county general fund.

Also, we have been asked if the general drain improvement fund money should be appropriated each year. That can be construed to mean: If you appropriate so many dollars this year to supplement it—and it gets into the general drain improvement fund—should it be appropriated again next year? We are of the opinion that once this fund has been established, as provided by the act and transferred money to it, ones does not reappropriate the same each year in the county general fund budget. The subject fund becomes a revolving fund. The only time to make an appropriation from the county general fund is when funds are needed to maintain the general drain improvement fund at a level which will be sufficient to meet the obligations as provided in Section 701 of the code. However, maintenance funds, as set out in Section 702, are provided for by means other than a tax levy; therefore, we do not find any authority to appropriate money from the county general fund or a separate tax levy for this maintenance fund.

CONCLUSION

We have reviewed the drainage code and endeavored to give our thinking for a guideline on budgetary procedures. However, all budgets and appropriations and tax levies are subject to the general budget laws, in that they must be advertised, appropriated by the county council, subject to review by the county tax adjustment board, and reviewed by the state board of tax commissioners for final approval. The drainage board or surveyor does not have any statutory authority to appeal to the State Board of Tax Commissioners from the action of the various reviewing agencies, such as the county council or the county tax adjustment board. All appeals must be made by the appropriating body and in this situation it is the county council.

In summary, we have the drainage board expense to be appropriated in the county general fund. We have the general drain improvement fund to be appropriated from the county general fund limited to 30 cents for \$100 in the aggregate. Also, we do not believe any expense of the drainage board should be appropriated in the county surveyors budget and we will review such, if any, very carefully at budget time and in all probability disapprove such an appropriation. It is realized that probably

many resent the tax board and some of its operations, but we have this responsibility. I'm well aware of this, having served ten years as a township trustee, on the other side of the fence. So, I can weigh this thing from several different angles. It is hoped that this review of budgeting for county drainage board operation has not muddied the waters too much, but it made them a little clearer and that there will be very little confusion this year in reviewing appropriations in the 1967 budget.